

HIGHWAY
EXTENSION
AND
RESearch
PROJECT
FOR
INDIANA
COUNTIES

GUIDELINES

**Purchasing and Purchase Contracts by
Indiana County Highway Departments**

(Issued May 1980)

PURDUE UNIVERSITY-ENGINEERING EXPERIMENT STATION

in cooperation with

THE COUNTY COMMISSIONERS OF INDIANA

HIGHWAY EXTENSION AND RESEARCH PROJECT
FOR INDIANA COUNTIES

The Highway Extension and Research Project for Indiana Counties (HERPIC) was organized at Purdue in 1959 to implement legislation by the Indiana General Assembly authorizing programs of extension and research for county highway departments throughout the state.

The financial support for these programs of extension and research is derived from 1/8 of 1% of the funds made available to the 92 counties from gas taxes and license fees collected by the State of Indiana. The legislation by the General Assembly also designated Purdue University through its Engineering Experiment Station and School of Civil Engineering to develop and coordinate these programs.

The HERPIC program of extension and research provides for the preparation of manuals and bulletins setting forth recommended procedures and for regional workshop conferences with county road officials throughout the state to review typical road problems for their area. All of these activities are designed to assist and guide county highway officials in their problems of management, planning, design, and operation of county highway departments.

The HERPIC project operates as a cooperative effort between the county commissioners of Indiana and Purdue University. The program of extension and research is guided and approved by a 12-man advisory board, consisting of six county commissioners from over the state and six members from the staff of Purdue's School of Civil Engineering. The current membership of the HERPIC Advisory Board is listed below.

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Indiana County Highway Departments

(Issued May 1980)

Highway Extension and Research Project for Indiana Counties
Civil Engineering Bldg. - Purdue University
West Lafayette, Indiana 47907

Guide Manual on Purchasing and Purchase Contracts

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Section I

INTRODUCTION

Purchasing and purchase contracts authorized by statute provide a continuing process for county highway departments to procure the property, equipment, materials, goods and services required for the maintenance and construction of county roads and bridges. Purchasing has been defined as a process of procuring property, materials or services for a price, either by open market quotations or by purchase contracts; the latter consisting of a written quantity-price agreement between the buyer and the seller-- in our case, the county highway department and the vendor of equipment, materials or services.

Current annual expenditures by Indiana county highway departments for the construction and maintenance of county roads and bridges is something over \$100 million. Fully 70 per cent of this amount is used in the purchase of materials, supplies, tools, equipment, services or construction required to carry out the annual road programs for the 92 county highway departments. Thus, county road operations not only involve a substantial expenditure of public funds, but most generally represents the greatest dollar volume of public purchasing in the county.

Indiana statutes, as well as good administrative practice, requires that routine purchases by governmental agencies be made through contracts awarded under competitive bid procedures. The statutory purchase procedures here in Indiana have been developed over the past seventy-five years or so, have been amended a number of times, and involve, in the case of county highways, several distinct pieces of legislation. For these reasons alone, County Road Officials, particularly if they are new in their jobs, often

have difficulty in determining the limits of their authority and responsibility with respect to county highway purchase procedures.

This Manual has therefore been developed to outline the statutory framework within which County Road Officials must carry out purchasing and purchase contracts for their respective county highway departments. While the Manual is focussed on county highway purchasing, the procedures outlined have general application to all purchasing by the County Unit.

Sample forms prescribed by the State Board of Accounts are presented in Appendix A and the applicable statutes on purchasing authority are presented in Appendix B. The outline of statutory requirements are accompanied with suggestions on administration procedure, all of which will assist County Road Officials in formulating effective policy decisions for the purchasing process.

The information presented in this Guide Manual is based on the applicable statutes, supplemented with suggestions and comments to implement appropriate administrative action. However, County Road Officials should keep in mind that this information is general in character and should therefore be used as broad guidelines within which the purchasing process is carried out. Specific questions on unusual or complicated arrangements should be directed to the:

State Examiner
State Board of Accounts
State Office Building - Room 912
Indianapolis, Indiana 46204

Section II

PURCHASING AUTHORITY --- SUMMARY

The Indiana statutory procedures applicable to the purchase of materials, equipment, goods, and supplies by county highway departments are set forth in seven separate statutes as follows:

- | | |
|--|---------------------------------|
| (a) County Highway Purchase Law | (IC 8-18-2-1) |
| (b) Public Purchase Law | (IC 5-17-1-1 et seq.) |
| (c) County Purchase Law | (IC 17-1-24-34 & 35) |
| (d) Purchasing Agency Law | (IC 17-2-77-1 et seq.) |
| (e) Intergovernmental Cooperative Purchasing Law | (IC 18-5-2-1 et seq.) |
| (f) Agency Service Contracts | (IC 5-17-4-1 et seq.) |
| (g) Federal Surplus Property Program | (US-PL 94-519)
(IC 5-17-2-1) |

It should be noted that the above listing is in the general order of importance with respect to the amount of authority, limitations and requirements imposed on county highway purchasing. The overall framework within which the county highway purchasing process operates is embodied in the County Highway Purchase Law (IC 8-18-2-1) which was enacted in 1935 to specifically accomplish this end.

The Public Purchase Law (IC 5-17-1-1 et seq.) first enacted in 1945 is applicable to all units of state and local government and includes some important supplemental provisions and requirements. Thus, these first two laws set forth the most of the statutory authority, requirements, and limitations for the purchase of county highway materials, equipment and supplies with the exception of printing, stationery and office supplies.

The County Purchase Law (IC 17-1-24-34&35) is an old law, enacted as a

part of the 1899 County Reform Act. This law covers the annual purchase of materials and supplies for all offices and departments of the County Units; however, purchases for road repair are specifically exempted. The application of this law to county highway purchasing is limited to the purchase of printing, stationery and office supplies. (see Section VIII-5)

The Purchasing Agency Law (IC 17-2-77-1 et seq.) authorizes counties of a certain population-size to create and operate an agency to purchase materials, equipment, and supplies under existing and future laws. This law may have application to county highway purchasing in some of the larger counties; however, this law in no way modifies or changes the general requirements of the purchasing procedure.

The Intergovernmental Cooperative Purchasing Law (IC 18-5-2-1 et seq.) authorizes state and local units of government to contract with or sell or purchase from other units of government within the state of Indiana. While this law enhances the overall flexibility of the procurement process, its main advantage or benefit comes from increased quantity purchases which generally reduces the unit costs.

The Agency Service Contracts Law (IC 5-17-4-1 et seq.) authorizes the chief officer or the governing or legislative body of a state agency, a unit of local government or an agency of a unit of local government to contract with a public or private person for any ministerial service which is necessary or in the public interest. Likewise, this law provides more flexibility in securing needed services to discharge the responsibilities of state and local government.

The Federal Surplus Property Program (US-PL 94-519) (IC 5-17-2-1) is authorized under an amended version of the Federal Property and Administrative Services Act of 1949 and provides for the distribution of surplus Federal

property to state and local units of government through a state agency created for this purpose. This program can provide county highway departments with a possible source of equipment and supplies at a nominal cost.

County road officials interested in the specific details or wording of the five laws governing county highway purchases should refer to the Appendix B where the complete text of the applicable Statutes have been included.

The sections of the Manual that follow present a detailed outline of the applicable statutory requirements for making purchases of materials, equipment, and supplies by county highway departments. These outlines have been developed to present the purchasing process in a logical sequence, as well as from the standpoint of "who does what".

In addition to the outline of statutory requirements, appropriate comments and suggestions on procedure have been incorporated in the outline. This outline will not only assist county road officials in complying with the existing purchase laws but will also assist in upgrading and improving the overall purchasing process.

It is incumbent on all County Road Officials involved in the purchasing process to have a complete understanding of their individual role and responsibility for carrying the process forward in accordance with the statutory requirements.

BOARDS OF COUNTY COMMISSIONERS, in particular, perform a central role: in establishing purchasing policy, in adoption of specifications, in the awarding of purchase contracts to the lowest and best bidders, and finally in the approval of claims authorizing payment for the items purchased.

In addition to County Highway Purchasing, it should be noted that Boards of County Commissioners also have the exclusive power and authority for all purchase contracts and all public works contracts by the County Unit.

SUMMARY OF PURCHASING PROCEDURE
FOR INDIANA COUNTY HIGHWAY DEPARTMENTS

(Steps in Normal Procedure)

Step 1 -- Requisition for tools, supplies, materials and equipment prepared by County Highway Engineer or Supervisor along with applicable specifications.

(Note: - This assumes that adequate appropriations exist in the budget classifications covered by the requisition.)

Step 2 -- Requisition approved by Board of County Commissioners, recorded in Commissioners' Minutes, and filed with the County Auditor.

Step 3 -- County Auditor publishes Legal Notice advertising for sealed bids on items set forth in requisition.

Step 4 -- Sealed bids received and reviewed by Board of County Commissioners.

Step 5 -- Bids accepted and purchase contract awarded by Board of County Commissioners; (or bids may be rejected by county board).

Step 6 -- Purchase Order drawn authorizing Vendor to deliver goods, materials or equipment to county highway department.

Step 7 -- Goods, Materials or equipment delivered by Vendor and receipted by county highway department.

Step 8 -- Claim filed by Vendor (along with supporting invoices and receipted delivery tickets) for payment of goods, materials or equipment delivered to county highway department.

Step 9 -- Claim audited by County Highway Clerk or Bookkeeper for correctness.

Step 10-- Claim advertised by County Auditor.

Step 11-- Claim considered for payment by Board of County Commissioners.

Section III

COUNTY HIGHWAY SUPERVISOR OR ENGINEER

1. On approval by the Board of County Commissioners, the official in charge of the repair and maintenance of county highways (County Highway Supervisor or Engineer) shall file a requisition with County Auditor for all tools, implements, supplies, materials and equipment that is needed.

(IC 8-18-2-1)
(IC 17-1-24-35)

Requisitions may be filed to cover the county highway departments estimated annual needs for materials, supplies and equipment; or to cover single items such as major pieces of road machinery. Requisitions may also be filed for semi-annual or quarterly needs of materials and supplies. In estimating needs, careful attention should be given to quantity; too little quantity may mean sacrifice of volume discounts and added costs for emergency purchases at a latter date. Excessive quantity may create storage problems, excessive handling costs or increased loss due to obsolescence.

2. Requisitions shall be on a form (County Form No. 116) prescribed by the State Board of Accounts.

(IC 8-18-2-1)
(IC 17-1-24-35)

See Appendix A for example of Form No. 116.

In the preparation of the requisition, careful attention should be given to designating an "Item No." for each item in the numerical sequence listed. In addition to the "Quantity", the "Unit" of measurement should also be indicated in the column provided. Brief references to specifications, quality requirements, or delivery points should follow the "Description". The "Date Wanted" should also be completed for all items; the latter could be "As Needed", or "Within 60 Days", or a specified date.

3. Requisitions for machinery, equipment and road materials shall have attached detail specifications that are recognized standard specifications which allow competitive bidding.

(IC 8-18-2-1)

Specifications should never be left to chance; they need not always be elaborate but should describe clearly and concisely the item to be purchased such that there can be no misunderstanding of the quality standards sought. Good specifications are reasonable in tolerance yet must not contain loopholes that allow a bidder to evade any of the provisions and thereby take advantage of his competitors or the county highway department. Likewise, good specifications should be capable

of being met by several bidders for the sake of competition and also should be capable of being checked to determine acceptance or rejection.

Wherein possible, Indiana county highway departments should use the standard specifications of the Indiana State Highway Commission for road materials, such as stone, gravel, and bituminous materials. In the case of supplies, standard commercial grades should be specified. Specifying "brand name or equal" only leads to criticism and should be avoided; except that brand names must be used when seeking bids for repair parts. Specifications for machinery and equipment should be drawn so as to consider the job or work to be done, the performance capability, operating costs, versatility, and probable purchase price.

4. The person authorized to receive materials or supplies on behalf of the county (County Highway Supervisor or Engineer or a person designated by them) shall check the delivery of same and certify in writing on the delivery invoice or bill that the listing of materials or supplies have been delivered in accordance with the contract; deficiencies in either quantity or quality are subject to appropriate deductions.

(IC 17-1-24-37)

Careful attention should be given to receipting the quantity and quality of all items purchased by the county highway department. Special instructions are generally needed for the foremen or employees receiving gravel, stone and/or bituminous materials at a stockpile site or at a construction site. Weigh tickets or other documentation of quantity should be receipted at the point of delivery and turned in at the county highway office, promptly at the end of each days work.

Section IV

COUNTY AUDITOR

1. County Auditor shall cause all requisitions to bear the file stamp of of the county auditor showing the date filed. (IC 8-18-2-1)

In addition to being a good office practice, this requirement is necessary to establish the minimum elapsed time between the date of advertising for bids and the date for the opening of bids.

2. County Auditor shall cause all requisitions and specifications therefor to be kept available for public inspection. (IC 8-18-2-1)
(IC 17-1-24-35)

Traditionally, all county records are "open information" and available for public inspection; this is especially true of all information related to purchasing by county highway departments.

3. County Auditor shall cause the publication of a legal notice advertising for sealed bid proposals. (IC 5-17-1-2)
(IC 8-18-2-1)
(IC 17-1-24-35)

The Auditor should consult IC 5-3-1 thru IC 5-3-3 for further details on legal advertising, such as rates and schedules required by statute.

4. County Auditor shall furnish to possible bidders printed forms prescribed by the State Board of Accounts, (Form No. 95) on which all bids shall be submitted. (IC 17-1-24-40)

This procedure insures a uniform size and form of bid sheet. See Appendix A for example of Form No. 95.

Section V

LEGAL NOTICE

1. Legal Notice published by County Auditor shall state the following:

- (a) the time and place Bids will be received and considered.

(IC 5-17-1-2)

(IC 8-18-2-1)

Unless it is otherwise specified as to place, it is always assumed that the Board of County Commissioners receive and review Bids in the Commissioners' Room of the County Courthouse.

- (b) the estimated quantity of any article to be purchased.

(IC 8-18-2-1)

(IC 5-17-1-2)

The estimated quantity is usually qualified by the words "or less", such as 90,000 gallons or less, 5000 cyds or less, 200 tons or less, etc. This method of purchasing is sometimes referred to as "open-end bidding" and has the advantage of securing a firm price on long-term needs without requiring excessive storage facilities on the part of the county highway department.

- (c) the time or time period for which delivery is required.

(IC 8-18-2-1)

(IC 17-1-24-35)

The legal notice should state that all items are to be delivered within the specified time indicated or on an "as-needed" basis.

- (d) that the Bid Proposal along with a non-collusion affidavit must be executed on forms (Form No. 95) prescribed by the State Board of Accounts.

(IC 5-17-1-3)

(IC 17-1-24-41)

See Appendix A for example of Form No. 95.

- (e) the number of Items that may be bid on a single Bid Proposal form.

The number of items bid in a single proposal is optional. If no mention is made of this in the Notice to Bidders, it is possible to have several unrelated items bid by one vendor on a single bid proposal. If such is the case, it will often be

difficult to organize the opening of the bids in any orderly sequence. For this reason some counties specify that: "Each item bid must be submitted on a separate bid form and enclosed in a separate envelope, with item number and requisition number marked on the outside of the envelope". Through this procedure, all bid proposals for a given item may be opened consecutively and the bids compared without interruption. Other counties deal with this problem by designating a limited number of items that can be bid on a given day.

- (f) the Bid Items for which an "escalator-clause" may be included as a provision of the quoted bid price

The Attorney General of Indiana held in an official opinion (1946 Ind. O.A.G. p.233) that a bid containing an "escalator-clause" covering the cost of either equipment, materials or supplies would not be invalid, providing all other Indiana statutory requirements concerning the letting of public contracts were followed.

More recently, PL 34-Acts 1980 authorizes the award of public works contracts with an "escalator clause" providing for price adjustment of construction material, when the method of price adjustment is specified in the contract.

Therefore, the Notice to Bidders should specify: (a) the bid items for which "escalator clauses" may be included as a provision of the bid price, and (b) the method of price adjustment to be used when the "escalator clause" is exercised. (see also Section VI - Item 2)

- (g) the number of copies of the Bid Proposal to be submitted by the Bidder.

The number of copies to be filed is optional. Some counties require two copies; this permits one copy to be filed permanently and leaves one copy available for office use.

- (h) that out-of-state bidders shall file a certified check of specified amount (not less than 10% of total bid if over \$500) with Bid Proposal; that in-state bidders shall file a bond of specified amount (not less than 10% of total bid if over \$500) with Bid Proposal; that checks and bonds of the successful bidders will be held until the purchase contracts are complete.

(IC 5-17-1-2)
(IC 8-18-2-1)

The minimum bond or certified check required is 10% if the total bid is over \$500 (see Section VI-3); however, there may be occasions when the Board of Commissioners may want to require a greater amount of bond; however the bond required should never be increased for the purpose of discouraging or eliminating any potential bidder.

- (i) that specifications and forms for Bid Proposals are on file in the County Auditors office (or the County Highway office).

(IC 8-18-2-1)

(IC 17-1-24-35)

Specifications should describe with reasonable particularity the kind, quantity, and quality of all materials, equipment, goods or supplies that may be needed during the contract period. Specifications may provide for bids to be taken on the purchase or lease of an unspecified number of items at a fixed unit price.

- (j) that no bidder may withdraw his bid for a period of thirty (30) days from date set for opening Bid Proposals.

This provision is not required by statute but is suggested to give the Commissioners sufficient opportunity to compare bids before making an acceptance.

- (k) that the Board of County Commissioners reserve the right to accept the bid of the lowest and best bidder or to reject any or all bids.

(IC 8-18-2-1)

(IC 17-1-24-35)

See Section VII-3.

- (l) any terms or conditions that will affect the cash purchase price such as trade-ins, rental payments, or time-payments.

Where bids are requested on equipment involving a trade-in of used equipment, the legal notice should indicate the location where the used equipment may be inspected. If more than one piece of used equipment is to be traded-in, then it is suggested bidders be required to submit an itemization of the trade-in allowance for each piece of used equipment. This procedure eliminates any misunderstanding where more than one piece of equipment is being purchased.

If bids are requested on "equipment rental - purchase option" the legal notice must so state and further specify that any and all incidental carrying charges must be included in the "total purchase price".

Likewise, if bids are requested on equipment under a "time-payment purchase", say equal payments over 24-months, then the legal notice must so state and further specify that any and all incidental carrying charges must be included in the "total purchase price".

In the purchase of heavy equipment and road machinery, Boards of County Commissioners should weigh the merits of "time-payment purchase" versus "equipment rental-purchase option". If the Board of County Commissioners are uncertain about committing the county to a given make of equipment without a trial-use period of several months, then perhaps the "equipment rental-purchase option" has some merit. However, if the primary object is to spread the required cash outlay over a period of time, then there is considerable advantage and merit to the "time-payment purchase" that will reduce the total equipment cost to the county.

Under the "equipment rental-purchase option", the equipment distributor must handle all of the financing and insurance costs during the rental period, without any assurance the county is going to exercise the "option to purchase". As a result the equipment distributor must charge a rental rate that covers the financing costs, insurance costs, depreciation costs, overhead costs, plus anticipated re-conditioning and re-sale costs in the event the county does not exercise the "option to purchase".

Meanwhile, all of these additional costs are being passed on to the county in the form of rental rate charges. Where the county desires to trade-in used equipment this procedure is further complicated by the fact that the equipment distributor cannot consummate any trade-in allowances until the county exercises the "option to purchase".

By way of contrast, with "time-payment purchase" the cost to the county is increased only by the amount of the financing charges included in the "total purchase price"; the equipment ownership is transferred to the county with the award of the purchase; likewise, any trade-in allowances can also be consummated with the award of the purchase. Again, if the primary object is to spread the required cash outlay over a period of time, then there is considerable advantage and merit to the "time-payment purchase" for equipment and road machinery for county highway departments.

2. Legal Notice shall appear at least ten (10) days previous to the regular meeting of the Board of County Commissioners when such bids will be considered.
(IC 5-17-1-2)
(IC 8-18-2-1)

The 10-day period is counted from the first insertion; many counties allow an extra day or two over the 10 days provided to avoid any misinterpretation, particularly if the first insertion is in an evening newspaper and the bids are to be opened in the morning.

In addition to advertising the Legal Notice, it is suggested that the County Highway Supervisor maintain a card file or Bidders List on all prospective bidders in the locality who supply materials, goods or equipment for which bids are normally sought. Mimeographed copies of

the Legal Notice and specifications can then be mailed to the appropriate bidders at the same time the 1st insertion is made in the local newspaper. This procedure helps stimulate competitive bidding and reduces the possibility of having only a single bidder or no bidder.

3. Legal Notice shall be published by two (2) insertions in each of two (2) newspapers of general circulation representing opposite political parties, printed and published in the taxing district of the municipality (county) or in one (1) such paper if only one (1) be there published, and in case no newspaper is there published, then the same shall be published in any two (2) newspapers representing the two (2) leading political parties published in the county and having a general circulation in such taxing district, or if only one (1) such paper be there published then such notice published in such paper shall be sufficient to comply with the requirements.

(IC 5-17-1-2)

(IC 17-1-24-35)

Additional time over the 10 days must also be allowed where a weekly newspaper is involved.

Section VI

BIDDERS

1. Bidders must submit their sealed bid, offer or proposal on forms (Form No. 95) prescribed by the State Board of Accounts setting forth the quantity, quality, and price of each and every article and thing proposed for sale or lease. (IC 5-17-1-3)

This is an absolute requirement; there are no exceptions. Each bidder should make sure that his bid is submitted in a sealed envelope marked "Bid Proposal" and addressed to the Board of County Commissioners with the return address of the Bidder shown. In the event the bid is mailed, it is often advisable to send it by "Registered Mail". In addition each Bidder should check to be sure that the quantities and units are the same as called for in the "Invitation to Bid", also in the case of fixed quantities, make sure the quantity times the unit price bid is equal to the total amount bid.

2. Bidders must execute and file with their sealed bid proposal a non-collusion affidavit (also a part of Form No. 95) as a part of the bid proposal. (IC 17-1-24-41)

The non-collusion affidavit is a part of the bid proposal form; yet, failure to execute the affidavit is one of the common reasons Boards of County Commissioners are forced to reject, otherwise valid, bid proposals.

3. Bidders must include in the Bid Proposal any specific qualifying provisions to their quoted bid prices or delivery dates.

Where the Bidder desires to qualify his bid with an "escalator-clause" and where the Notice to Bidders provides that such an "escalator-clause" may be included, the following is a suggested wording for an "Escalator-Clause" that a Vendor might include in his quoted bid price for materials, supplies or equipment:

"All bid prices quoted for materials (supplies or equipment) are based on the current market price from our suppliers. Any increase or decrease in the cost from our suppliers will be passed on to the county in the amount of the increase or decrease. Any and all price changes will be supported by a written statement from our suppliers showing the effective date and the amount of the price change".

4. Bidders must file with their sealed bid proposal a bidders bond or certified check payable to the County Treasurer whenever the total of such sealed bid is in excess of \$500.00, said bond or check shall be not less than ten (10) per cent of the total bids; checks of unsuccessful bidders to be returned to them upon selection of successful bidders and check or bond of successful bidder to be held until delivery or if contract, until completion of contract.

(IC 5-17-1-2)

(IC 8-18-2-1)

The purpose of the bidders bond or certified check is to protect the interests of the county highway department in the event the lowest bidder attempts to withdraw his bid or fails to deliver the materials or equipment as stipulated in the Invitation to Bid. Out-of-state bidders are required to file a certified check, while in-state bidders may file either a bid bond or a certified check. For in-state bidders the certified check deposit is often the most convenient for both the bidder and the county highway department.

Section VII

BOARD OF COUNTY COMMISSIONERS

1. The Board of County Commissioners receive and consider bid proposals.
(IC 5-17-1-1)
(IC 8-18-2-1)
(IC 17-1-24-35)

To avoid any possible misunderstanding, in connection with the opening of bids, the Board of Commissioners should insist that all bids be submitted in sealed envelopes as suggested in Section VI-1. Bids should in most cases be read aloud when opened for the benefit of those present at the Bid Opening. After each bid proposal is opened, the bid prices should be reviewed by each member of the Board and then tabulated by the County Auditor before the next bid proposal is opened.

2. Where the total estimated cost of the purchase of materials, equipment, goods and supplies is less than Ten Thousand Dollars (\$10,000), or the estimated cost of the equipment to be leased is less than Five Thousand Dollars (\$5,000), the Board of County Commissioners may invite bids from three (3) or more persons or firms known to deal in the class of materials, equipment or supplies needed, by mailing each a copy of applicable specifications not less than three (3) days before the time fixed for receiving bids.
(IC 5-17-1-2)

This procedure, while not an absolute requirement, will often obtain competitive bids lower than the open market price from commercial outlets.

3. The Board of County Commissioners shall have the right to enter into a contract with the lowest and best bidder, for one (1) or more of the items for which bids are received but under no circumstances shall the Board of County Commissioners be required to purchase from one bidder all items for which bids are received.
(IC 5-17-1-1)
(IC 8-18-2-1)
(IC 17-1-24-35)

Boards of County Commissioners should make a broad evaluation of what constitutes the "lowest and best bid" for the county highway department, taking into account both the short-and long-range benefits of each bid

proposal. There are often logical and justifiable reasons why the "low-dollar bid" is not necessarily the "lowest and best bid" for the county highway department.

Products having no proven service record or having a questionable service record even though "low-dollar" might not be the "lowest and best bid" for the county highway department.

In weighing the bids for heavy equipment and road machinery, Boards of County Commissioners should consider a number of factors that make up the total equipment cost.

$$\begin{array}{lcl} \text{Total} & & \text{Original Purchase Price} \\ \text{Equipment} = & \left\{ \begin{array}{l} + \text{Cost of Repairs (for life of equipment)} \\ + \text{Cost of Down-Time for Repairs} \\ - \text{Trade-In Value on New Equipment} \end{array} \right. \\ \text{Cost} \end{array}$$

Only one of these factors can be determined at the time of purchase; however the other factors should be considered comparing equipment bids.

Other justifiable reasons for rejecting the "low-dollar bid" are; non-compliance with specifications, undependable deliver service, unreliable repair service, and distant sources of repair parts.

In any event, the decision as to what constitutes the "lowest and best bid" is a judgement for the Board of County Commissioners on the merits of each bid proposal submitted.

4. The Board of County Commissioners may enter into a contract at the bid price for a quantity less than the quantity estimated in the requisition, but shall not enter into any contract for a larger quantity than requisitioned.

(IC 8-18-2-1)

(IC 17-1-24-35)

This provision safeguards against entering into a contract that exceeds the available appropriated funds; the provision also assures each bidder fair and equal treatment with respect to the volume or quantity of goods and materials set forth in the Invitation to Bid. See also Section V-1-b.

5. The Board of County Commissioners shall record all bids received in a permanent record to be known as "Bidders Record", (Form No. 115) said record to be prescribed by the State Board of Accounts, and which record shall be open at all times to the inspection by the public and shall enter thereon orders for purchase, and reasons for selection, and the reasons for rejection if the low bid is not accepted.

(IC 8-18-2-1)

Besides being a desirable office practice, this procedure documents all the bids submitted, allows for "open" inspection by the public, and safeguards against the possible loss of (or purloined) bid proposals.

6. The Board of County Commissioners may reject any and all bids and ask for new bids.

(IC 5-17-1-2)
(IC 8-18-2-1)
(IC 17-1-24-35)

Some of the more common reasons for rejecting all bids and asking for new bids are: (a) non-compliance with specification; (b) only one bid submitted which indicates lack of competition; (c) all bids too high; or (d) total amount of bid exceeding the available appropriated funds.

7. The Board of County Commissioners, within thirty (30) days after acceptance of any bid proposal for purchase of materials, equipment, goods or supplies or lease of equipment shall deliver in person or mail to the seller an original (first copy) Purchase Order (Form No. 98); retain a copy thereof for its own records; and file a copy for public record and inspection with the County Auditor.

(IC 5-17-1-4)

PURCHASE ORDER, General Form No. 98, prescribed by the State Board of Accounts, is to be used for all purchases made by Indiana county highway departments. The purchase order is a legal document and written authority for the vendor to supply goods or materials to the County Highway Department. The purchase order is also a fiscal instrument and is a part of the accounting procedures for determining the unencumbered balance in each authorized appropriation.

Purchase orders for materials and supplies that are required on a continuing basis during the year are usually written to cover the estimated needs for each month. The proper and uniform use of the purchase order makes it possible to encumber funds at the end of the year for materials and supplies to be delivered the following year. This procedure can usually provide better continuity to the overall budgeting and purchasing process and conserves the next year's appropriations.

Section VIII

EMERGENCY PURCHASES & SPECIAL PROVISIONS

1. Emergency Purchases by Highway Supervisor or Engineer: The Board of County Commissioners may authorize the Highway Supervisor or Engineer to purchase supplies, tools, and materials not to exceed Five Hundred Dollars (\$500.00) in any one (1) month without receiving bids.(IC 8-18-2-1)

Attention to the following key points will assist county road officials in the correct application of this special provision of the County Highway Purchase Law. (IC 8-18-2-1)

(a) The provision applies only to purchases that are emergencies-unforeseen requirements that are necessary for the efficient operation of the county highway department. Relatively few emergency purchases are required where the County Highway Supervisor makes a conscientious effort to get firm bids covering all the anticipated annual needs for supplies, tools, and materials.

(b) The application of the provision is subject to the approval or authorization of the Board of County Commissioners. Boards of County Commissioners normally give the County Highway Supervisor blanket authority on this matter on a year-to-year basis. Even though the statute (IC 8-18-2-1) permits emergency purchases (without taking bids) up to \$500 in any one month, the Board of Commissioners have the authority to set a limit of a lesser amount, say \$350 or \$400 in any one month.

(c) It must be noted that the provision does not mention equipment and therefore equipment cannot be purchased by the County Highway Supervisor as an emergency item without taking bids in the prescribed manner.

(d) Purchase orders must be used for emergency purchases the same as for all other county highway purchases. Emergency purchase orders should show the words "EMERGENCY ORDER" in the upper right-hand section and should be totaled at the end of the month to verify that the \$500 (or lesser) limit has not been exceeded.

(e) The limitation of \$500.00 in any one month for emergency purchases applies to the total of all emergency purchases and not to any particular class or category of purchase; further the limitation applies only to emergency purchases of supplies, tools, and materials by the County Highway Supervisor.

(f) Certain critical purchases by the County Highway Supervisor are often "emergency" in character in that they may be made without taking bids but which are "non-chargeable" against the \$500 limitation set

forth in the special provision. Some of these common "non-chargeable" purchases are as follows:

- Repair of tools, implements, and equipment performed by persons or firms outside the county highway department. (see Section VIII-4)
- Repair of parts for equipment which can only be procured from the manufacturer of such equipment. (see Section VIII-4)
- Purchases of supplies, tools, or materials to cover items for which no valid bid is received after advertising for bids in the prescribed manner (see Section VIII-3) --- or to cover items on which the low bidder defaults on his bid proposal after being awarded the purchases contract. If the latter is the case, the facts should be documented in the Commissioners Minutes.
- In addition to the above listing, none of the other permissible no-bid purchases set forth in Section VIII-2, 3 or 4 are chargeable against the \$500 limitation of the emergency purchase provision for the county highway supervisor.

2. Purchase or Lease by Board of County Commissioners: The Board of County Commissioners may purchase materials, equipment, goods, or supplies or lease equipment on the open market without the giving of notice or the receiving of bids where the total amount of any purchase does not exceed the sum of Ten Thousand Dollars (\$10,000) or where the total amount of the annual lease-rental payment for equipment leased does not exceed Five Thousand Dollars (\$5,000); provided however, that all purchases by the Board of County Commissioners of similar materials, equipment, goods and supplies during a six (6) month period from a person (company, firm, partnership or corporation) (during a given calendar year) may not exceed Ten Thousand Dollars (\$10,000); and the total annual lease-rental payments to a person (company, firm, partnership, or corporation) for all equipment leases may not exceed Five Thousand Dollars (\$5,000). (IC 5-17-1-1)

One feature worthy of note is that giving of notice, receiving of bids, and the \$10,000 limitation does not apply to the purchasing of materials, equipment and supplies or the leasing of equipment from the U.S. Government. (see Section IX)

The Public Purchase Law (IC 5-17-1-1 et seq.) is applicable to all units of state, county, township, city, and town government. The limitation on open market purchases was raised to the present \$10,000 by the 1979 General Assembly. In the case of county highway purchasing, this provision is supplemental to the County Highway Purchase Law (IC 8-18-2-1).

One important feature to county highway departments is that purchase orders for emergency purchases of materials, equipment, or supplies under this special provision must be signed by a County Commissioner. For this reason many counties refer to such purchase orders as "Commissioner Purchase Orders".

3. Purchase After No Bids Received: If the Board of County Commissioners advertise for bids for any materials, equipment, goods or supplies pursuant to the provisions of IC 5-17-1-2 & 3, and do not receive a valid bid therefor or for any item thereof, in that event any such item or items of materials, equipment, goods or supplies so sought or advertised for may be purchased or leased on the open market without further advertisement for bids.

(IC 5-17-1-2)

County highway departments often fail to get bids on certain items of supplies and materials particularly if the items are relatively small quantities. Under these conditions the only recourse is to make open-market purchases; however maintaining a Bidders List and mailing mimeograph copies of the Legal Notice to prospective bidders as suggested in Section V-2 helps reduce the possibility of getting no bids.

4. Purchase Items Not Requiring Bids: The Board of County Commissioners may purchase or procure the following categories without the giving of notice or the receiving of bids. There are no statutory requirements covering the procurement of these categories by county highway department. The applicable costs are either established or negotiated rates. In all cases however, an appropriation must be available in the correct budget classification for a legal and valid claim to be paid. Except as noted, all items listed below must be covered by a Purchase Order to officially encumber the expense and to insure the availability of the appropriation.

Purchase Categories Not Requiring Bids(purchase order not required)

- (a) Labor (purchase order not required) (IC 8-18-2-1)
- (b) Per diem or mileage allowance provided by law
(purchase order not required)
- (c) Utility service - gas, lights, telephone (IC 5-17-1-1)
(purchase order not required) (IC 8-18-2-1)
- (d) Ditch or other special assessments
(purchase order not required)

Purchase Categories Not Requiring Bids(purchase order required)

- (e) Equipment Rental with annual payment (IC 5-17-1-1)
less than \$5000. (purchase order required) (IC 8-18-2-1)
- (f) Rental of space or property
(purchase order required)
- (g) Equipment Repair Parts that can only be procured
from the manufacturer of such equipment.
(purchase order required) (IC 5-17-1-8)
- (h) Equipment Repair by outside shop or repair
service (purchase order required)

5. Purchase of County Printing, Books, Blanks, and Stationery: The purchase procedure for these categories of supply is essentially the same as for other supply items purchased by the county highway departments, except that the purchasing is authorized under the County Purchase Law (IC 17-1-24-35) and requires a special requisition form (Co. Form No. 91 A) and a special specification, bid and contract form (Co. Form No. 91). Certain deadline dates are designated for making the annual purchases of printing and stationery supplies for all county offices. Since these supply categories represent minor expenditures by county highway departments and since the annual purchase contract for these supplies covers all of the offices and agencies of county government, a detailed outline of the purchase procedure for same has not been

included in this Manual. County road officials interested in the details involved should consult the County Purchase Law (IC 17-1-24-35) included in the Appendix B. Listed below, however, are the deadline dates and specific points that county road officials should remember in connection with the purchasing of printing and office supplies.

- (a) Requisition for materials and supplies needed in the ensuing year must be filed on or before the first day of September.
- (b) Specifications, bid and contract must be prepared and placed on file in the Auditors Office, open for public inspection, on or before the first Tuesday after the first Monday of October.
- (c) Legal notice for purchase of county printing, books, blanks, and stationery must be given between November twentieth and December twentieth of each year.
- (d) Sealed bid Proposals must be filed on a day fixed by the Commissioners but not later than the thirty-first day of December.
- (e) Bids and contracts must cover the needs and requirements for a full year; contracts for a portion of the years supplies are specifically prohibited, except that contracts may be let quarterly or semi-annually for the purchase of supplies and materials used in highway repair, maintenance and construction.

Section IX

INTERGOVERNMENTAL COOPERATIVE PURCHASING

The Intergovernmental Cooperative Purchasing Act, authorizes Boards of County Commissioners (along with all other state and local agencies) to contract with other units of state and local government:

- (a) for specific services or
- (b) to sell to, or to purchase from any other unit of state or local government, or
- (c) to contract for purchase of materials, supplies and equipment for use of any other unit of state or local government. (IC 18-5-2-1)

For additional details on cooperative purchasing, County Road Officials should consult Appendix B for the full text of the Intergovernmental Cooperative Purchasing Law.

State and Local units should always be alert to the opportunity for cost-savings through cooperative service contracts and purchase contracts with other governmental units. Here are a few examples:

- A county may enter into a service contract with a city in which the city provides street sweeping services to subdivisions lying outside the city limits.
- In the purchase of county sheriff cars or city police cars, a county or city may enter into a cooperative purchase agreement with the Indiana Department of Administration, Division of Supply, wherein the State's Notice to Bidders for state police cars includes the additional number of cars called for in the county's (or city's) cooperative purchase agreement. The county (or city) will thereby benefit from the cost-savings of lower bids generated by the competition for volume sales.
- In the annual purchase of salt for snow and ice control, counties (cities and towns alike) may also enter into cooperative purchase agreement with the Department of Administration, Division of Supply, wherein the State's Notice to Bidders for the state highway salt supply includes the additional quantities of salt and points of delivery called for in the county's (or city's or town's) cooperative purchase agreement. Again, the county (or city or town) will thereby benefit from the cost-savings of lower bids generated by the competition for volume sales.

The foregoing are only a few examples of cooperative purchasing between state and local units. The Intergovernmental Cooperative Purchasing Law (IC 18-5-2-1 et seq.) (see Appendix B) makes possible a wide variety of agreements between local units and between the state and local units. Therefore, County Road Officials should explore all possibilities for developing cost-savings or other benefits through cooperative purchase agreements.

For cooperative purchasing with the state, Boards of County Commissioners should make early contact with the:

Director, Supply Division
Indiana Department of Administration
State Office Bldg. - Room 507
Indianapolis, Indiana 46204
Phone (317) 232-3032

It is quite important to determine the Supply Division's schedule for purchasing the particular item of equipment or supply. Timing is quite important to the competitive bidding process.

One further example to illustrate this point. Counties have traditionally taken annual bids for materials, supplies and equipment at the end or start of a calendar year. However, this is a poor time to get a firm, competitive bid for ice control salt, mainly because the salt industry has a heavy demand for orders at this time of year. The Supply Division's experience has shown that they receive the lowest and best bids for salt where the bids are taken during mid-year, say June or July, when the demand is at a low level. Therefore, counties can reduce their cost for salt, and have an assured supply if they join in a purchase agreement with the State's Supply Division.

To realize the benefits of this approach, however, it is necessary for County Road Officials to inform the Supply Division early on (say in April or May) of: the estimated quantity of salt needed in the winter season ahead, the points of delivery, and the time (or times) of delivery. With this information in hand, the Supply Division can proceed to develop cooperative purchasing agreements with the participating counties and incorporate the counties' needs in their Notice to Bidders.

Section X

AGENCY SERVICE CONTRACTS

The Agency Service Contracts Act, authorizes Boards of County Commissioners (along with all other state and local agencies) to contract with other units of state or local government (also with private individuals, incorporated or unincorporated organizations or associations) for the performance of any ministerial service that it must or may have done under its direction which is necessary or desirable in the public interest. Such contracts with a unit of state or local government must be let to and through its chief officer or member of its governing or legislative body.

For additional details on agency service contracts, County Road Officials should consult Appendix B for the full text of the Agency Service Contract Law.

State and Local Units should likewise be alert to the opportunity for cost savings or operational advantages through the use of service contracts with other state or local agencies or with private organizations or associations.

- An example of an agency service contract might be for computer services between a county and a city in the same county.
- Another example might be for a county to contract with a private firm to update the county plat maps for purposes of taxation.
- Still another example might be for a county to contract with a private firm or association to provide specialized training or instruction for a select group of employees.

Section XI

FEDERAL SURPLUS PROPERTY PROGRAM

The Federal Surplus Property Program provides for the distribution of Federal property to State and Local Units that is no longer needed by Federal Agencies and is classified as "surplus property". While this program is not directly related to the purchasing process, it can provide County Road Officials with a possible source of equipment and supplies at a very low cost.

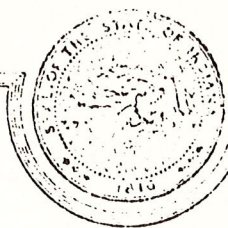
The Indiana Department of Administration, Supply Division, serves as the Indiana State Agency for Federal Surplus Property. The Director, Administrative Offices and Warehouse are located at 601 Kentucky Ave., Indianapolis, Indiana 46225, phone (317) 232-1384.

County Commissioners and County Highway Supervisors should, at their convenience, visit the Warehouse to apprise themselves of the wide variety of items that are available at a nominal cost. Since all the items are surplus, the inventory, the quantity and the condition are quite variable. Some items are new and unused while others have had considerable use.

The Warehouse inventory will normally include a selection of office furniture and equipment; likewise, shop tools, shop equipment, mechanics tools, small motors are often available. Occasionally, pick-up trucks and small items of construction equipment are available.

In order for a County to participate in the Federal Surplus Property Program, the County Auditor is required to establish County Identification (ID Card) and Eligibility as explained in the letter and form on the following two pages. Each time a new Auditor takes office the ID Card and Eligibility must be re-established.

STATE OF INDIANA



INDIANAPOLIS 46225

DEPARTMENT OF ADMINISTRATION

SUPPLY DIVISION

 INDIANA STATE AGENCY
 FOR
 FEDERAL SURPLUS PROPERTY

 601 KENTUCKY AVENUE
 INDIANAPOLIS, INDIANA
 PHONE: 633-5420 OR 635-5421

 AFFILIATED WITH THE
 UNITED STATES DEPT. HEALTH, EDUCATION & WELFARE
 PUBLIC LAW NO. 182

September 26, 1977

TO: All County Auditors Offices

FROM: The Indiana State Department of Administration

This letter is to inform you that Public Law 94-519 (known as the "Brooks Bill") passed by Congress on October 17, 1976, grants all county funded activities eligibility to participate in the Federal Surplus Property program as administered by the Indiana State Agency for Federal Surplus Property.

Since 1947 the Indiana State Agency for Federal Surplus Property has had the responsibility of transferring property that the Federal Government has declared surplus to its needs to the various eligibles. These eligibles have been: Schools, Hospitals, Public Librarys and Civil Defense Units (as determined by the State Civil Defense office). Public Law 94-519 adds to these eligibles all Units of State and Local Governments.

To make the management of this program as simple as possible, from both the State Agency standpoint and the County standpoint it is suggested that the County Auditors office be the one office in the County through which all County activities participate in the Surplus Property Program. Any County activity wishing to look for property in the State Agency warehouse would first get authorization from your office. This authorization would be in writing and would have to be picked up each time the activity planned to visit the warehouse. All billings (there is a service charge assessed on all items) would be directed to your office for payment.

The first step for your office to take to acquire eligibility is to request in writing on October 17, 1977 or thereafter, the State Agency eligibility form. Upon receipt of your request the forms will be sent to you for completion. An identification card will then be issued to your office.

We urge you to take advantage of this new opportunity to participate in the Surplus Property Program.

Questions may be directed to the Indiana State Agency for Federal Surplus Property, 601 Kentucky Avenue, Indianapolis, Indiana 46225. Telephone 317-232-1384, Jack Kivett, Director.

ELIGIBILITY APPLICATION FOR TOWNSHIP, TOWN,
CITY, COUNTY, STATE AND FEDERAL AGENCIES

Agency Name of Applicant _____

Address _____

County _____ Area Code _____ Telephone No. _____

1. Type of Agency (Check Type of Agency)

Federal _____

State _____

County _____

City or Town _____

Township _____

Other (Specify) _____

2. Are funds available to pay Service Charge on
items recieved? Yes _____ No _____

3. How is agency funded?(Show Percentages)

a. Tax supported (Other than by grant) _____

b. By grant and/or contributions _____

c. Other (Specify) _____

4. If either 3b or 3c is answered in the affirmative, has
the agency been determined non-profit and tax-exempt by
the U. S. Internal Revenue Service under Section 501(c)(3)
of the IRS Code? Attach a copy of such determination.
Yes _____ No _____ Pending _____

5. Population of Taxing Unit (Last Census) _____

6. Are services of your agency offered to the Public
regardless of Race, Color, Creed, Sex or Handicap?
Yes _____ No _____

Date _____ Signed _____

Title _____

For Indiana SASP use only.

Date Approved _____ Date Disapproved _____

Director _____

Comment:

Appendix A

Forms Prescribed by State Board of Accounts

to Implement Purchase Procedure

1. COUNTY HIGHWAY SUPERVISORS REQUISITION
(County Form No. 116)
2. BID, OFFER OR PROPOSAL ON
Material, Materials, Equipment, Goods or Supplies
(County Form No. 95)
3. BIDDERS RECORD
(County Form No. 115)
4. PURCHASE ORDER
(County Form No. 98)

COUNTY HIGHWAY SUPERVISOR'S REQUISITION

No. _____

To the Auditor of.....County, Indiana.

The following tools, implements, machinery, supplies, materials, and equipment are hereby requisitioned for maintenance and repair of county roads and bridges under my supervision.

ITEM	QUANTITY	UNIT	DESCRIPTION	DATE WANTED

Detailed specifications for machinery, equipment and materials above requisitioned are hereto attached.

Signed this..... day of....., 19.....

County Highway Supervisor

Revised Form No. 95 (1964)

BID OF

Address

For
MATERIAL OR MATERIALS,
EQUIPMENT, GOODS
OR SUPPLIES

Filed, 19

THIS BID ACCEPTED FOR THE
FOLLOWING CLASSES OR ITEMS

this day of 19

P. O. No. Issued

Date

IF NO PART OF BID IS ACCEPTED, WRITE THE
WORD "REJECTED" ACROSS PAGE
Harwood Pub. Co., Lafayette, Ind.

Fold Lines for 4" File Jacket

BID, OFFER OR PROPOSAL
on
MATERIAL OR MATERIALS, EQUIPMENT,
GOODS OR SUPPLIES

....., **Indiana**,, 19.....

To _____
State name, official position and municipality

Pursuant to notices given, the undersigned proposes to furnish the material or materials, equipment, goods or supplies as per said notices and specifications now on file in the office of.....

State name	official position	and municipality
and as per copy thereof, hereto attached, or as described herein for the following amounts:		
(State the class or item number or an exact description of the material or materials, equipment, goods or supplies to be furnished and amount of bid on each article.)		

[illegible]

PROPOSAL

The undersigned bidder agrees to furnish to.....
Indiana, all articles and things enumerated on the foregoing pages in accordance with the specifications and in compliance with all stipulations therein, at and for the prices set opposite each item, and declares and represents that the price herein charged for each and every article and thing named in this offer or bid is net, and that it is fair, just and usual; that he has not offered nor received a less price for the articles embraced in this bid than that

stated herein, except.....

(Here state specifically to whom, when, why, price)

that if this bidder shall offer to or receive from any person, firm, board, commission, trustee or corporation, during the continuance of the contract sought hereunder, a less price than that stated herein, excepting market changes, he consents that the difference shall be deducted from any sum due under said contract, or, if there be none, that said difference may be recovered from him by appropriate action; and it is hereby agreed by this bidder that this stipulation shall be a part of any contract that may be entered into upon this bid; and this bidder further agrees that he will not, directly or indirectly, withdraw this bid from the office in which it is filed and that the same shall in the manner and form in which it is made, become and remain a part of the public documents in said office.

The undersigned bidder further agrees that on acceptance of this proposal by the

.....of said....., Indiana,
Board or Trustee Govt. Unit
as to either or all the classes or items, this bid and agreement is to become and be a contract to such effect, as to each class or item so accepted upon the filing herewith of a bond or certified check in the amount as required by the purchaser in notice to bidders. Any liability for breach of said contract shall be enforceable by an appropriate action upon said contract or bond or certified check, as the case may be, or either or both of them as provided by law in similar cases.

In testimony whereof the bidder has hereunto set ^(his) (their) hands this.....day of
....., 19.....

Bidder

By

Agent or Individual Members of Firm or

Officers of Corporation

The Contractor and his sub-contractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of this contract, with respect to his hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of his race, color, religion, national origin or ancestry. Breach of this covenant may be regarded as a material breach of the contract.

NOTE — The contract will be awarded by classes or items, in accordance with specifications. Any changes, interlineations or alterations in the items specified will render such bid void as to class or items.

NON-COLLUSION AFFIDAVIT

STATE OF INDIANA,

..... COUNTY } SS:

The undersigned bidder or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting, nor to prevent any person from bidding nor to induce anyone to refrain from bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding.

He further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee, gift, commission or thing of value on account of such sale.

.....
.....
Bidder or Agent

For
Firm or Corporation

Subscribed and sworn to before me this.....day of....., 19.....
My Commission Expires

ACCEPTANCE OF PROPOSAL
AS
CONTRACT

It appearing from the records that there is now a sufficient unobligated appropriation of funds available, the foregoing agreement is accepted by the.....of
Board or Trustee

....., Indiana, as to classes or items.....
Govt. Unit

Such acceptance to operate as a contract binding such.....
Govt. Unit

Dated this.....day of....., 19.....

.....
.....
.....
.....
.....
.....
Board or Trustee

Attest:.....

.....
Official Title

.....
Govt. Unit

319

County Form No. 115 - One Page - Actual Size 12" X 13½" (Book)
Complete Original Copy only for Public Record.

THIS NO.

GOVERNMENTAL UNIT

Must be on Invoice, Claim or Delivery
Memo.

ADDRESS

DATE _____

TO

REQ.

ADDRESS

IN ACCORDANCE WITH BID AND

CITY

CONTRACT DATED

SHIP TO

DEP'T

HOW SHIP

IF subject to cash discount please indicate on Invoice or Claim.

[illegible]

**This order issued in compliance with
CHAPTER 99, ACTS 1945.**

TOTAL ORDER**APPROPRIATION BALANCE**

I hereby certify that there is an unobligated balance in this appropriation sufficient to pay for the above order.

Billing on this order must be according to prices shown above.

ORDERED BY

(Officer Responsible: _____)

Title

Haywood Pub. Co., Lafayette, Ind.

ORIGINAL— Vendor's Copy

PURCHASE ORDER

DATE

TO

FROM

QUANTITY

UNIT PRICE

TOTAL

REMARKS

APPROVED BY

SIGNATURE

DATE

TIME

PLACE

REMARKS

APPROVED BY

SIGNATURE

DATE

TIME

PLACE

REMARKS

APPROVED BY

SIGNATURE

DATE

TIME

PLACE

REMARKS

APPROVED BY

SIGNATURE

DATE

TIME

PLACE

REMARKS

APPROVED BY

SIGNATURE

DATE

TIME

PLACE

REMARKS

Appendix B

Indiana Statutes on Purchase Authority and Procedure
=====

(Subject to change by future legislation)

1. COUNTY HIGHWAY PURCHASE LAW
(IC 8-18-2-1)
2. PUBLIC PURCHASE LAW
(IC 5-17-1-1 et seq.)
3. COUNTY PURCHASE LAW
(IC 17-1-24-34 & 35)
4. PURCHASING AGENCY LAW
(IC 17-2-77-1 et seq.)
5. INTERGOVERNMENTAL COOPERATIVE PURCHASING LAW
(IC 18-5-2-1 et seq.)
6. AGENCY SERVICE CONTRACT LAW
(IC 5-17-4-1 et seq.)
7. FEDERAL PROPERTY PURCHASE LAW
(IC 5-17-2-1 et seq.)

COUNTY HIGHWAY PURCHASE LAW

=====

8-18-2-1 Requisition for tools; publication; bidding

Sec. 1. The official in charge of repair and maintenance of county highways shall file with the county auditor a requisition for all tools, implements, supplies, materials and equipment that is needed. Such requisition shall be on form prescribed by the state board of accounts. The county auditor shall cause the requisition to be kept available for public inspection and shall cause to be published in two (2) newspapers of opposite political faith in the county, the fact that the board of county commissioners will receive sealed proposals at the next regular meeting for furnishing the tools, implements, machinery, supplies, materials or equipment requisitioned by the official in charge of the repair and maintenance of the county highways. This legal notice shall show the estimated quantity of any article to be purchased, the time that delivery will be required, and time and place bids will be received and considered. Such notice shall be published at least ten (10) days previous to the regular meeting of the board of county commissioners when such bids will be considered. The board of county commissioners shall have the right to enter into a contract with the lowest and best bidder, for one (1) or more of the items for which bids are received, but under no circumstances shall the board of county commissioners be required to purchase from one (1) bidder, all items for which bids are received. The board of county commissioners may enter into a contract at the bid price for a quantity less than the quantity estimated in the requisition, but shall not enter into any contract for a larger quantity than was requisitioned. Requisitions for purchase of machinery, equipment and road materials shall have attached thereto detail specifications. Detail specifications shall be recognized standard specifications which allow competitive bidding. All requisitions shall bear the file stamp of the county auditor showing date filed: Provided, That the officer in charge of repair and maintenance of county highways may expend with the approval of the board of county commissioners, for the purchase of supplies, tools and materials, not to

exceed five hundred (\$500.00) dollars in any one (1) month without the receiving of bids. The board of county commissioners shall record all bids received in a permanent record to be known as "bidders record," said record to be prescribed by the state board of accounts, and which record shall be open at all times to the inspection of the public and shall enter thereon orders for purchase, and reasons for selection, and the reasons for rejection if the low bid is not accepted. Each bidder shall accompany his bid with a bidders bond or certified check payable to the county treasurer whenever the total of such sealed bid is in excess of five hundred dollars (\$500.00), said bond or check shall not be less than ten (10) per cent of the total bids; checks of unsuccessful bidders to be returned to them upon selection of successful bidders and check or bond of successful bidder to be held until delivery, or if contract, until completion of contract.

The board of county commissioners shall employ or contract with such teams, trucks or truck contractors, and employees as may be necessary to assist in and carry on the repair work on the roads under the charge of the official in charge of repair and maintenance of county highways, and the board of commissioners shall designate and employ all such assistants and employees, and shall determine the rate of wages to be paid for labor, trucks and teams. (Formerly: Acts 1935, c.145, s.1; Acts 1953, c.209, s.1; Acts 1975, P.L.34, SEC.7).

8-18-2-2 Warrants

Sec. 2. The county auditor shall draw his warrant in payment of any claim filed against any appropriation for the repair and maintenance of county highways only after the provisions of this act have been fully complied with. (Formerly: Acts 1935, c.145, s.2).

8-18-2-3 Review of conflicting laws

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed, but nothing in this act shall be construed as affecting contracts, for the purchase of supplies, tools and materials, upon which bids and offers have already been submitted. (Formerly: Acts 1935, c.145, s.3).

PUBLIC PURCHASE LAW
=====

5-17-1-1 Compliance with requirements of chapter; limits; exemptions

Sec. 1. (a) This chapter applies to leases of equipment whether or not title passes from the lessor to the lessee. The term "purchaser" as used in this chapter includes persons who make leases for equipment.

(b)(1) Any person, officer, board, commissioner, department, commission, municipal port authority, or purchasing agent hereinafter designated as purchaser, duly authorized and empowered by law or delegated and entrusted with authority, to make purchases of material or materials, equipment, goods and supplies except current utility bills, or leases of equipment, payment for which is to be made from any appropriation of public funds made under the provisions of the budget law, for any unit of the state, county, township, city or town government shall comply with the requirements of this chapter whenever the total amount of any purchase exceeds ten thousand dollars (\$10,000) or total annual rental payment under any lease exceeds five thousand dollars (\$5,000).

(2) In all cases of purchase of materials and supplies where the total amount of any such purchase does not exceed the sum of ten thousand dollars (\$10,000), and in all cases of the lease of equipment where the annual rental payment does not exceed five thousand dollars (\$5,000), the purchaser or lessee may buy or lease in the open market without the giving of notice or the receiving of bids.

(3) All purchases of similar materials, equipment, goods and supplies by any government unit from a person during a six (6) month period under paragraph (2) of this subsection may not exceed ten thousand dollars (\$10,000) and the total annual rental payments to a person under all leases for equipment under paragraph (2) of this subsection may not exceed five thousand dollars (\$5,000).

(4) Materials, equipment, goods and supplies may be purchased, or such equipment may be leased, from the United States government, or

any agency, division or instrumentality thereof, without the giving of notice or the receiving of bids.

(5) Municipally owned utilities, in case of emergency only, may purchase repairs and purchase or lease equipment without the giving of notice or the receiving of bids. (*Formerly: Acts 1945, c.99, s.1; Acts 1953, c.32, s.1; Acts 1963, c.328, s.1; Acts 1969, c.483, s.1). As amended by Acts 1977, P.L.61, SEC.1; Acts 1979, P.L.45, SEC.1.*)

5-17-1-2 Advertising for purchase of materials, etc., and lease of equipment; specifications; notice of time and place for receiving bids; procedures

Sec. 2. In all cases of advertising for the purchase of materials, equipment, goods and supplies, and the lease of equipment, the purchaser shall prepare specifications describing with reasonable particularity the kind, quantity and quality of all materials, equipment, goods, and supplies which may be needed for any designated period. It may be provided in such specifications that bids will be received and contracts let, separately, for each line or class of materials, equipment, or supplies, or the specifications may provide that bids will be received and contracts let for the purchase or lease of an unspecified number of items at a fixed price per unit. Notice of the time and place for receiving of bids for the purchase or lease shall be given by publication by two (2) insertions in each of two (2) newspapers of general circulation representing opposite political parties, printed and published in the taxing district of the municipality or in one (1) such paper if only one (1) be there published, and in case no newspaper is there published, then the same shall be published in any two (2) newspapers representing the two (2) leading political parties published in the county and having a general circulation in such taxing district, or if only one (1) such paper be there published then such notice published in such paper shall be sufficient to comply with the requirements herein. Notice must appear at least ten (10) days prior to the time for the

receiving of bids. If the cost of the materials, equipment, goods, and supplies to be purchased does not exceed ten thousand dollars (\$10,000) or the equipment to be leased does not exceed five thousand dollars (\$5,000), the purchaser may invite bids from not less than three (3) persons, firms, or corporations, known to deal in the particular class or classes of materials, equipment, goods, or supplies described in the specifications, by mailing to each person, firm, or corporation, a copy of such specifications not less than three (3) days before the time fixed for receiving bids. Said purchaser or purchasers shall, after a satisfactory bid is received, award a contract to the lowest and best bidder for each class of supplies, equipment, goods, or materials required, except that if less than three (3) bids are received, to the best bid so received. If any purchaser invites or advertises for bids for any material, materials, equipment, goods or supplies, pursuant to the provisions of this chapter, and does not receive a valid bid therefor or for any item thereof, in that event any such item or items of material, materials, equipment, goods or supplies so sought or advertised for may be purchased or equipment may be leased on the open market without further advertisement for bids. A certified check shall be required to be filed with each bid and the amount determined and specified by purchaser in the notice of such letting from any person, firm, or corporation not having its principal place of business in the state of Indiana. A bond shall be required to be filed with each bid in the amount determined and specified by the purchaser in the notice of such letting by any person, firm or corporation who has a principal place of business in the state of Indiana. The purchaser may reject any and all bids and ask for new bids. (Formerly: Acts 1945, c.99, s.2; Acts 1969, c.483, s.2). As amended by Acts 1977, P.L.61, SEC.2; Acts 1979, P.L.45, SEC.2.

5-17-1-3 Prescribed forms

Sec. 3. No such purchaser may make any purchase or contract for the purchase of any material or materials, equipment, goods or supplies or the lease of equipment unless the bid, offer, proposal, estimate or contract of any person, firm or corporation offering any and all

such articles for sale or equipment for lease is executed upon the forms prescribed by the state board of accounts of the State of Indiana setting forth the quantity, quality, and purchase or lease price of each and every article and thing proposed for sale or lease. (Formerly: Acts 1945, c.99, s.3). As amended by Acts 1977, P.L.61, SEC.3.

5-17-1-4 Delivery of original purchase order or lease; filing of copies

Sec. 4. Within thirty (30) days after the acceptance of any bid, offer, proposal, estimate or contract for purchase of materials, equipment, goods, and supplies, or lease of equipment, the said purchaser or purchasers shall deliver in person or mail to the seller or lessor the original of each such purchase order or lease; retain a copy thereof for his own records; and file a copy for public record and inspection as follows:

(a) When any such purchase or lease is made for the state or any department or institution thereof, except the state supported institutions of higher education, the Indiana state highway commission and the central purchasing bureau, said copy of the purchase order or lease shall be filed with the auditor of state.

(b) When any such purchase or lease is made for any county, the copy of the purchase order or lease shall be filed with the county auditor.

(c) When any such purchase or lease is made for a civil city or town or any department or departments thereof, the copy of the purchase order or lease shall be filed with the controller, clerk or clerk-treasurer thereof.

(d) When any such purchase or lease is made for a school city or school town or any department thereof, the copy of the purchase order or lease shall be filed with the secretary or clerk thereof. (Formerly: Acts 1945, c.99, s.4). As amended by Acts 1977, P.L.61, SEC.4.

5-17-1-5 Bidders; violations; felony; sanction

Sec. 5. A person making any such bid, offer, proposal, estimate or contract to sell or lease, who knowingly violates this chapter commits a Class D felony and may not be a party to or

PUBLIC PURCHASE LAW - contd

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benefit from any contract with a public body in the state for two (2) years from the date of his conviction. *(Formerly: Acts 1945, c.99, s.5). As amended by Acts 1977, P.L.61, SEC.5; Acts 1978, P.L.2, SEC.520.*

5-17-1-6 Violations; felony

Sec. 6. Any person, officer, board, commissioner, department commission or purchasing agent who knowingly violates any of the terms of this chapter commits a Class D felony. *(Formerly: Acts 1945, c.99, s.6). As amended by Acts 1977, P.L.61, SEC.7.*

5-17-1-7 Liability of purchasers for wrongful performance

Sec. 7. Where in this act a duty is imposed upon the purchasers, such duty shall be performed by the person, officer, clerk or employee whose duty or employment require that they act for any board, commission, department, or unit of government making any such purchase, and any such person, officer, clerk or employee shall be liable on his bond for any loss or damage resulting from a wrongful performance of such duty or from any violation of any of the provisions of this act. *(Formerly: Acts 1945, c.99, s.7).*

5-17-1-8 Application of chapter

Sec. 8. This chapter is supplemental to all existing laws concerning the purchase of material, equipment, goods and supplies and the lease of equipment by the state, counties, townships, cities or towns, payment for which is to be

made from any appropriation of public funds made under the provisions of the budget laws. However, this chapter does not preclude the extension beyond the contractual time period, of contracts let pursuant to the provision of this chapter as an alternative to advertising for new bids. In addition, nothing contained herein shall be construed so as to prohibit the purchase for the repair and maintenance of county highways of supplies, tools and materials, or the lease of equipment not exceeding five hundred dollars (\$500) in any one (1) month without the receiving of bids, as specified in IC 8-18-2. Repair parts for machinery or equipment which can only be procured from the manufacturer of such machinery or equipment may be purchased or leased without the giving of notice or the receiving of bids. This chapter does not apply to purchases or leases made by the Indiana state highway commission, nor to the central purchasing bureau, nor to state supported institutions of higher education, except that copies of purchase orders or leases shall be kept on file and be open to public inspection. *(Formerly: Acts 1945, c.99, s.8). As amended by Acts 1977, P.L.61, SEC.6.*

5-17-1-9 "City, town, and township" defined

Sec. 9. The term "city, town, and township" as used in this act shall include not only the civil city and town and township, but shall include the school city, town and township. *(Formerly: Acts 1945, c.99, s.9).*

COUNTY PURCHASE LAW

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17-1-24-34 Supplies and materials; restrictions on purchase

Sec. 34. No supplies or materials of any sort to be paid for out of the county treasury shall be purchased, contracted for or procured by any one except by the board of commissioners; or persons authorized by them, and no warrant shall be drawn on the county treasury and no funds disbursed in payment for any supplies or materials unless the same have been so purchased. (*Formerly: Acts 1899, c.154, s.35*).

17-1-24-35 Supplies and materials; procedure for purchase

Sec. 35. (a) Except as to the authorizations, requirements, and prohibitions of subdivisions (f) (1) and (f) (2) of this section, the board of county commissioners shall have the exclusive power to purchase materials and supplies of any kind and every sort which are to be paid for out of the county treasury. Such supplies and materials shall be purchased only upon the written requisition of the officer, employee, or department for whom or for whose work such supplies or materials are deemed necessary. The form of such requisition shall be prescribed by the state board of accounts and distributed by the board of county commissioners for the use of the various county officials, employees, and departments entitled to make such requisitions. All materials and supplies shall be described with reasonable particularity as to kind, quantity and quality, the purpose for which they are needed and the office or place where they are to be used, and the quantity required for the ensuing year shall be estimated.

(b) All officers, employees, and departments of the county who need supplies or materials to be paid for out of the county treasury shall present to the board of commissioners before September 2 each year their written requisitions for all material and supplies required by them for the ensuing calendar year. It shall be the duty of the board of commissioners, having required and received such requisition, to prepare full and definite specifications, bid, and contract before the first Wednesday after the first Monday of October of each year of the kind

and quality of supplies needed for the county for the ensuing calendar year. Drawings, models, or plans shall be prepared when needed to make definite any specifications. In preparing any such specifications the board of commissioners may reduce the items of any requisition submitted to them as they may think proper but may not purchase, contract for, nor procure any materials or supplies not called for in such requisition except as hereinafter provided. The form of specifications, bids, and contracts to be used by the board of commissioners and the rules and regulations to govern in all matters pertaining to the contracts in all counties shall be prescribed by the state board of accounts and no bids of any kind or character shall be considered except upon form prescribed by said board, and accompanied by good and sufficient surety as now provided by law. After the preparation of such specifications, bid, and contract for materials and supplies so required for the ensuing year, such requisitions and specifications shall be placed on file and kept in the auditor's office where they shall be kept open to public inspection.

(c) The commissioners shall cause a brief notice to be given by publication in two (2) newspapers of different political faith, informing the public of the general nature of the materials and supplies required by the county and the fact that specifications and forms for bid and contract for same are on file in the auditor's office and calling for sealed proposals for such supplies and materials upon a day to be fixed by the commissioners not later than December 31. All such notices shall be published at least ten (10) days before the date set for receiving bids and letting contract and the notice of letting contract for purchase of county printing, books, blanks, and stationery shall be given after November 20 and before December 20 each year. No bid shall be received for any materials or supplies different from the exact specifications prepared and filed. Said board shall, after a satisfactory bid is received, award a contract to the lowest and best responsible bidder for each class of supplies or materials required. The specifications shall be prepared in such manner as may be deemed to the best

COUNTY PURCHASE LAW - contd

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interest of the county, to secure free and open competition in bidding. Contracts shall be let separately upon each class of materials or supplies.

(d) In every case the bidder shall be required to bid on each article mentioned in the specifications and no bid shall be accepted when such bid appears to be upon materials or supplies not mentioned in the requisition and entered upon specifications. The board may reject all bids and readvertise for new bids. The provisions of this chapter shall not apply to such articles as may be used at the county institutions for the maintenance and subsistence of inmates, but any such articles shall be purchased quarterly upon requisition of the superintendents thereof, after notice to bidders as required by this chapter. Bids shall be submitted separately, and contracts shall be let separately upon each line or class of materials or supplies. In every case, the contract so let shall fix not only the price but the exact amount of quantity to be furnished, except that in case of contracts for meats, groceries, dry goods, fuel, and house furnishings required for the subsistence of inmates of county institutions and blank books, blanks, and stationery for the use of the county, the board shall let contracts for such articles at stated prices, leaving the amount or quantity to be furnished to vary with the needs of the county. All such contracts for materials or supplies for the ensuing calendar year shall be made for the entire year for the particular line or class of articles or materials embraced in the contract; however, the provisions of this chapter shall not apply to articles used for the maintenance

and subsistence and treatment of the inmates of county institutions having or which may have a business manager or purchasing agent, but such articles shall be purchased by said business manager or purchasing agent from the lowest and best bidder as needed.

(e) The board of commissioners shall, in case additional supplies are needed for the transaction of the public business, cause the same to be purchased of the contractor at the price of like supplies mentioned in the contract. And it is unlawful to make partial contracts for a portion of the year's supplies, except that for county institutions supplies for subsistence and maintenance of inmates may be contracted for quarterly instead of annually, and except that highways supplies and materials for repair, maintenance, and construction may be contracted for quarterly or semi-annually instead of annually. All contracts let in violation of this chapter are void.

(f) Other provisions, limitations, and authorizations of this section to the contrary notwithstanding:

(1) Boards of commissioners may subdivide any class in any manner deemed to be in the best interest of the county and permit awards of contracts on such subdivided classes.

(2) Officers and employees shall not disclose information to any persons that bids have been submitted on competitive bidding.

(g) A person who fails to comply with this section commits a Class C infraction. (*Formerly: Acts 1899, c.154, s.36; Acts 1903, c.175, s.1; Acts 1933, c.156, s.1; Acts 1943, c.199, s.1; Acts 1965, c.124, s.1; Acts 1967, c.285, s.1; Acts 1971, P.L.232, SEC.1). As amended by Acts 1978, P.L.2, SEC.1704.*

PURCHASING AGENCY LAW

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17-2-77-1 Authorization to create and maintain; powers and duties of agency; vacation of rule, regulation or order creating purchasing agency

Sec. 1. Each county of the state having a population of more than one hundred and five thousand (105,000), according to the last preceding United States census, is hereby authorized to create, operate, and maintain an agency for the purchase of all or certain supplies, material and equipment, as under existing and future laws, are permitted to be purchased with county funds for any or all purposes: Provided, That the provisions of this chapter shall not apply to any county which has a consolidated city within its boundaries. The agency shall also have the authority to sell, exchange, or otherwise dispose of personal property of the county, whenever the board of commissioners of the county, with the advice and assistance of the auditor of such county, shall sanction the transactions. The board of county commissioners of the county shall formulate and enter of record, in the county commissioner's record, a statement prescribing and defining clearly and succinctly the field of activity of the agency, setting forth the types of purchases authorized to be made with county funds. The board of county commissioners of the county shall adopt such rules and regulations as may be necessary to define the scope and method of the activities of the personnel of the agency, including the number, qualifications and compensation of employees of the agency. The rules and regulations may be from time to time amended, or the orders, herein prescribed to be entered creating this agency, may be set aside and vacated at the annual reorganization meeting of the board of county commissioners: Provided, That before any rule, regulation or order creating, operating and maintaining a purchasing agency created under the provisions of this chapter is set aside and vacated, it shall be the duty of the board of county commissioners to give thirty (30) days public notice to the effect that it is the intention of the board to set aside and vacate the rule, regulation or order creating a purchasing agency. This notice shall be given by publishing the

same twice in two (2) newspapers of general circulation in the county, and the last of the two (2) publications shall not be later than three (3) weeks before the time of the annual reorganization meeting. It shall be the duty of the auditor of the county to post at the court-house door, at least twenty-one (21) days before the reorganization meeting, a copy of said notice. If any rule, regulation or order creating a purchasing agency is set aside and vacated at the annual reorganization meeting, the agency shall cease and terminate. All purchase of supplies, materials, and equipment shall be made only after notice has been given and advertised as provided by law for purchases made by boards of county commissioners. (Formerly: Acts 1955, c.256, s.1; Acts 1961, c.253, s.1; Acts 1971, P.L.237, SEC.1; Acts 1973, P.L.165, SEC.1)

17-2-77-2 Purchasing agent; appointment

Sec. 2. Upon compliance with the foregoing provisions, such board of commissioners shall appoint a purchasing agent and shall furnish him blank forms, books, stationery and other devices and means necessary for use of himself and employees in performing the duties imposed on him. (Formerly: Acts 1955, c.256, s.2).

17-2-77-3 Oath and bond of purchasing agent

Sec. 3. Such purchasing agent and any employee of his shall before entering on performance of his duties take an oath and give bond in such sum and with such surety as the board of commissioners of such county may have prescribed in its rules and regulations, such bond evidenced and preserved as required by law in case of county officers: Provided, The bond of said agent shall not be less than ten thousand dollars (\$10,000). (Formerly: Acts 1955, c.256, s.3).

17-2-77-4 Powers and duties of purchasing agent

Sec. 4. Said purchasing agent, after qualifying, shall have power and is hereby authorized to employ and discharge at his discretion the employees permitted him, and to purchase all such material and supplies as may be prescribed of record by said board of commissioners in the original order creating said agency, after hav-

PURCHASING AGENCY LAW - contd

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ing received requisition or duplicate thereof from such individuals or bodies as may be authorized to require and use for any public purpose material and supplies to be paid for by such county's funds and the board's approval of any surplus: Provided, however, No supplies or materials prescribed as aforesaid to be purchased through such county agency shall thereafter be purchased by any other person or body and that all requisitions or duplicates thereof shall be indorsed "approved," together with the date of approval thereof, by such board of commissioners prior to purchase thereunder.

With the prior consent of the commissioners, said purchasing agent shall have power to sell, exchange or otherwise dispose of any personal property of such county: Provided, however, That all cash received therefor be paid directly to the treasurer of said county as now provided by law.

Said purchasing agent may delegate to his employees such authority as necessary to perform any part of his duties of them required.

The board of commissioners shall fix the salaries of all persons mentioned in this act with the approval of the county council. (*Formerly: Acts 1955, c.256, s.4*).

17-2-77-5 Purchase of supplies and material; duties of purchasing agent

Sec. 5. The purchasing agent shall buy all supplies and material required by the original and duplicate requisitions received by him and approved by said board, as well as any kind or quantity thereof in excess of such requisition which he may deem desirable and said board may approve; and he shall make such purchases and contract for future purchases in the manner, and at such times, and of such persons, firms, or corporations wherever situated as shall require the least outlay for the largest quantity of supplies and material of the quality and kind approved for purchase, under and by virtue of such rules and regulations for the operation of said agency as shall have been adopted by the board of commissioners in creating said agency. (*Formerly: Acts 1955, c.256, s.5*).

17-2-77-6 Requisition for material and supplies

Sec. 6. Each individual entitled to required supplies and material procured with county funds through such agency shall furnish to each purchasing agent a duplicate of periodical requisitions provided by law at least thirty (30) days prior to the period for which the articles required are to be used, and requisitions for articles omitted therefrom, as well as articles for unforeseen need that may arise, as soon as the need therefor is known: Provided, That any requisition in excess of current appropriations for use of the requisitioner shall be made separately from all others and have thereon indorsed the requisitioner's verified statement of the reasons therefor. (*Formerly: Acts 1955, c.256, s.6*).

17-2-77-7 "Supplies and materials" defined; billing and claim procedure; audit of accounts

Sec. 7. "Supplies and materials" as used in this act shall include every item of personal property for which county funds may be lawfully expended.

The bills or claims for all purchases made through such agency shall be made out in duplicate, against such county as purchaser and delivered to said purchasing agent and, if by him found correct on receipt of the articles therein described, indorsed by him "Correct" and submitted to said board for allowance and payment as provided by law.

In case of any bill received by said agent being found in any wise incorrect he shall return the same with his objections indorsed thereon, and if not amended to his satisfaction the seller may file such rejected bill with said board as a claim against said county and prosecute the same as provided by law.

No material or supplies shall be turned over by said agency or accepted by anyone other than a requisitioner and then only when a requisition therefor is on file with such agency. Said agency may at any time be required to aid by advice and correspondence in purchases not within those prescribed by said board to be made

PURCHASING AGENCY LAW - contd

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through such agency; but such aid shall be rendered only to some person or body authorized to make such purchases with county funds and shall not be an official act as purchasing agent but merely as assistant of the person or body empowered to act, and no record thereof need be kept by such agency.

Said board shall cause such agency's accounts to be audited at least once a year. (Formerly: Acts 1955, c.256, s.7).

17-2-77-8 Appropriation

Sec. 8. The county council of such county shall appropriate such sums as it may deem necessary to conduct the business of the agency. (Formerly: Acts 1955, c.256, s.8).

17-2-77-9 Violations

Sec. 9. It is a Class C infraction for a person to knowingly fail to comply with this chapter. (Formerly: Acts 1955, c.256, s.9). As amended by Acts 1978, P.L.2, SEC.1716.

INTERGOVERNMENTAL COOPERATIVE PURCHASING LAW

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18-5-2-1 Grant of authority

Sec. 1. Authority is hereby granted to the various departments, agencies and units of municipal, county, state government and school corporations to contract with other units of municipal, county, state government or school corporations within the state of Indiana, for specific services or to sell to or purchase from such subdivision or subdivisions, to contract for the purchase of materials, supplies and equipment for the use of any other subdivision of municipal, county, state government or school corporations within the state of Indiana. (Formerly: Acts 1961, c.173, s.1; Acts 1967, c.176, s.1; Acts 1971, P.L.261, SEC.1).

18-5-2-1.5 Contracts for development of effective community health programs

Sec. 1.5. A local board of health properly constituted under Indiana statutes, or a board of county commissioners or a city council may contract with or purchase from any person, organization, partnership or corporation planning services deemed essential to the development of an effective community health program. (Formerly: Acts 1971, P.L.262, SEC.1).

18-5-2-2 Contract negotiations; laws and regulations governing

Sec. 2. Any contract negotiated and executed pursuant to the provisions of this chapter shall be negotiated in conformance with applicable laws, rules and regulations governing such contracts: Provided, That when contracts are

negotiated between municipal, county or state agencies or subdivisions thereof, no notice by publication or posting of notice shall be required. Nothing in this chapter shall be construed to avoid such publication or posting of notice by any municipal, county or state agency, as required by law, when such purchase or contract for services is to be made from or with a nongovernmental agency. (Formerly: Acts 1961, c.173, s.2; Acts 1967, c.176, s.2; Acts 1971, P.L.262, SEC.2).

18-5-2-2.5 Advertising for bids

Sec. 2.5. Whenever any one unit of government authorized by this chapter to purchase for the use of any other unit of government within the State of Indiana seeks public bids and complies with legal requirements for the advertising of such requests for bids as may be required under the laws of the State of Indiana, such advertising shall be construed as meeting the advertising requirements which may be otherwise imposed upon such other units of government who may be the beneficiaries of the contract entered into by the unit of government making the contract. (Formerly: Acts 1971, P.L.261, SEC.2).

18-5-2-3 When contracts may be negotiated

Sec. 3. Such contracts may be negotiated and executed when it appears that local governmental services may be provided more economically and efficiently by the provisions of such contracts. (Formerly: Acts 1961, c.173, s.3).

AGENCY SERVICE CONTRACT LAW

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5-17-4-1 Definitions

Sec. 1. As used in this chapter, "person" means an individual, an incorporated or unincorporated organization or association, the state of Indiana, a unit of local government, an agency of the state or a unit of local government, or a group of such persons acting in concert.

"Service" means an action or actions to be performed under authority of the state, a state agency, a unit of local government, or an agency of a unit of local government permitted by law to be done by its chief officer or governing or legislative body for the convenience or necessity of its citizens, but not including any action which constitutes the exercise of its discretionary powers, an exercise of state sovereignty, or the taking of legislative, quasi-legislative, judicial, or quasi-judicial action. *As added by Acts 1979, P.L.46, SEC.1.*

5-17-4-2 Authorization

Sec. 2. The state, a unit of local government, a state agency, or any agency of a unit of local government may let a contract with a public or private person for the performance of any ministerial service that it must or may have done under its direction which is necessary or desirable in the public interest. *As added by Acts 1979, P.L.46, SEC.1.*

5-17-4-3 Limitation

Sec. 3. Notwithstanding the provisions of IC 5-17-4-2, no such contract may be let to any person who, because of his position in state or public office, would be ineligible to be chief officer or member of the governing or legislative body of the state, unit of local government, state agency, or agency of a unit of local government letting the contract. *As added by Acts 1979, P.L.46, SEC.1.*

FEDERAL PROPERTY PURCHASE LAW

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5-17-2-1 Director of division of procurement and supply; agent for purchase

Sec. 1. The director of the division of procurement and supply shall act as agent for any unit of government of the state of Indiana and may enter into any agreement or contract with the federal government, for the lease, purchase or use of any equipment, supplies, materials or other property pursuant to the provisions of this act. (Formerly: Acts 1945, c.219, s.1).

5-17-2-2 Federal surplus property; information

Sec. 2. The director of the division of procurement and supply of the state of Indiana shall obtain information from the federal government concerning available supplies of surplus property and the price or consideration required by the federal government for the sale, lease, or use thereof, and other terms and conditions required for its transfer. (Formerly: Acts 1945, c.219, s.2).

5-17-2-3 Information; availability to state

Sec. 3. The director of the division of procurement and supply (department of administration) shall make available to all departments, divisions and agencies of the state of Indiana, any information concerning property available for purchase. (Formerly: Acts 1945, c.219, s.3).

5-17-2-4 Information; availability to political subdivisions

Sec. 4. The director of the division of procurement and supply, upon request, shall make available to political subdivisions of the state of Indiana information concerning available surplus property of the federal government, and the price or consideration required for the sale, lease, or use thereof, and other terms and conditions required for its transfer. (Formerly: Acts 1945, c.219, s.4).

5-17-2-5 Purchase or lease of federal surplus without bidding

Sec. 5. Whenever the director of the division of procurement and supply shall find that personal property can be obtained from the federal government at prices less than would be obtain-

ed by taking bids as now provided by law for the purchase from private persons, said director may purchase, lease or obtain the use of said property directly from the federal government without the necessity of advertising to obtain bids, without notice, and upon such formalities and such terms as may be required by the federal government. (Formerly: Acts 1945, c.219, s.5).

5-17-2-6 Federal surplus; acquisition by political subdivisions

Sec. 6. If any political subdivision of the state of Indiana shall find that it can obtain surplus property of the federal government for prices or consideration less than would be obtained by the giving of notice and taking of bids or from purchases from private persons, such political subdivision shall make a requisition to the director of the division of procurement and supply of Indiana requesting and authorizing the director of the division of procurement and supply to obtain the transfer of said property, and the director of the division of procurement and supply shall have authority to contract as agent for said political subdivision and obtain the transfer of said property without the necessity of advertising to obtain bids without notice, and upon such formalities and such terms as may be required by the federal government. The requisition shall be upon forms prescribed by the state board of accounts, and said political subdivision shall, at the time of filing such requisitions, furnish said director the funds, or authority to draw on available funds, necessary for obtaining the transfer of such property so requisitioned. Provided, however, that the governing body of any political subdivision obtaining surplus federal property under the provisions of this act shall, at the time of the purchase or lease of such material, or immediately thereafter, give public notice of such transaction by setting forth in two (2) newspapers of general circulation and of opposite political faith, the type and amount of material purchased or leased and the amount of money paid for such material, and at the option of the director of the division of procurement and supply shall deposit with the revolving fund

FEDERAL PROPERTY PURCHASE LAW - contd

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provided for in this act such money as may be necessary to pay for supplies, equipment or other materials so requisitioned. (*Formerly: Acts 1945, c.219, s.6*).

5-17-2-7 Appropriations to pay cost of purchase

Sec. 7. No unit of government shall be authorized to make any purchase under the provisions of this act wherein the complete title to said property is sold before there has been made available a sufficient appropriation to pay the costs of the same, but if any property shall be transferred upon conditional sale, lease with option to purchase, lease, or a contract for the use of the same, such contract or agreement shall be valid if there are sufficient funds appropriated to pay the consideration required for one (1) year's lease or use. (*Formerly: Acts 1945, c.219, s.7*).

5-17-2-8 Gifts or grant of federal property

Sec. 8. Any unit of government is hereby authorized to receive any gifts or grants of federal property that may be needed or required by requesting the same in the manner similar to that herein required for purchases. (*Formerly: Acts 1945, c.219, s.8*).

5-17-2-9 Construction of chapter

Sec. 9. Nothing herein contained shall be construed to limit in any way the authority of the director of the division of procurement and supply to contract in behalf of any of the board, bureaus, commissions, officers, institutions, departments, divisions, agencies or instrumentalities, for whom he is now authorized to contract, and said director of the division of procurement and supply is hereby expressly authorized to obtain transfers of surplus property of the federal government pursuant to the provisions of this act, for any of the said boards, bureaus, commissions, officers, institutions, departments, divisions, agencies, or instrumentalities of the state. (*Formerly: Acts 1945, c.219, s.9*).

5-17-2-10 Division of procurement; employees

Sec. 10. The director of the division of procurement and supply may appoint and employ

such deputies, assistants, and employees as may be necessary efficiently to administer the duties provided by this act, all such appointments to be subject to the approval of the governor. (*Formerly: Acts 1945, c.219, s.10*).

5-17-2-11 Definitions

Sec. 11. The following words and phrases when used in this act shall for the purpose of this act, unless a different meaning appears from the context, have the following meanings:

(A) The "state of Indiana" shall mean the state of Indiana, or any board, commission, bureau, department, division, officer, agency, or instrumentality thereof.

(B) A "political subdivision of the state of Indiana" shall mean any school city corporation, school township, civil township, any county of the state, any incorporated city or town of the state, or any officer, board, bureau, commission, department, division, agency, or instrumentality thereof.

(C) Any "unit of government" shall mean the state of Indiana as defined in (A) of this section, or any political subdivision of the state as defined in (B) of this section.

(D) The "federal government" shall mean the United States of America, or any officer, board, bureau, commission, department, division, agency or instrumentality thereof.

(E) "Sale" and "transfer" shall mean and include sale, conditional sale, lease with option to purchase, lease, contract for use, grant or gift. (*Formerly: Acts 1945, c.219, s.11*).

5-17-2-12 Revolving fund

Sec. 12. With the approval of the state board of finance there may be established in the division of procurement and supply a revolving fund for the purpose of expediting purchases under the provisions of this act, such fund to be reimbursed out of any fund or funds appropriated to any department or division, board or commission by the general appropriation act. (*Formerly: Acts 1945, c.219, s.13*).



A.
Guidelines Purchasing and Purchase
Contracts by Indiana County Highway
Departments

